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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,762	06/02/2000	Dirk Van Hyning	5019	5865
25280	7390	11/06/2003		
MILLIKEN & COMPANY 920 MILLIKEN RD PO BOX 1926 SPARTANBURG, SC 29304			EXAMINER WACHTEL, ALEXIS A	
			ART UNIT	PAPER NUMBER
			1764	

DATE MAILED: 11/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/585,762

Applicant(s)

HYNING, DIRK VAN

Examiner

Alexis Wachtel

Art Unit

1764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Detailed Action

Response to Amendment

1. Applicant's amendment and accompanying Remarks filed 9-2-2003 have been entered and carefully considered.

The amendment is insufficient to overcome the obviousness rejections of claims 17-32.

2. The text of US code absent in this office action can be found in the previous office action.

Claims 17-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,849,311 to Sawan et al in view of US 5,432,000 to Young, Sr et al as set forth in the previous office action.

Response to Arguments

3. Applicant's declaratory evidence (Rule 132 Declaration of David Green) overcame the art rejections based solely on Sawan et al's disclosure. Examiner agrees that Applicant's declaration demonstrated that Applicant's claimed properties are not inherent to the article of Sawan et al's disclosure. Sawan et al was rendered inapplicable as prior art on its own due to the previously provided declaration. A secondary reference, i.e., Young, Sr et al was provided to remedy the deficiencies of Sawan et al's disclosure. The art combination of Sawan et al and Young, Sr et al clearly results with Applicant's claimed article since the binder disclosed by Young, Sr et al is chemically identical to the binder discussed by the Applicant in the Specification and provides clear motivation for its use with Sawan et al's article. As a result, the

Art Unit: 1764

Declaration filed by the Applicant fails to address the shortcomings of Young, Sr et al's teachings by way of a showing of unexpected results. Additionally, the Examiner disputes that hindsight was relied on as motivation for the inclusion of Young, Sr, et al's binder material in Sawan et al's article. In particular Young, Sr et al is directed to discontinuous fibers with a binder material coating that adheres solid particles to the fibers (Col 1, lines 18-21). Binders having good intermolecular contact between the binder and particles are disclosed as especially desirable (Col 11, lines 19-21). Desirable binders provided in emulsion form include polyesters, polyimides, melamine/formaldehyde and epoxy (Col 9, lines 35-67, Col 10, lines 1-19).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Alex Wachtel, whose number is (703)-306-0320. The Examiner can normally be reached Mondays-Fridays from 10:30am to 6:30pm.

Application/Control Number: 09/585,762

Page 4

Art Unit: 1764

If attempts to reach the Examiner by telephone are unsuccessful and the matter is urgent, the Examiner's supervisor, Mr. Glenn Caldarola can be reached at (703) 308-6824. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

ccv

Jerry D. Johnson
JERRY D. JOHNSON
PRIMARY EXAMINER
GROUP 1100